



# राजपत्र, हिमाचल प्रदेश

## (प्रसाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

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शिमला, शुक्रवार, 11 अप्रैल, 1975/21 चैत्र, 1897 (शक)

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**GOVERNMENT OF HIMACHAL PRADESH**

**VIDHAN SABHA SECRETARIAT**

**NOTIFICATIONS**

*Simla-4, the 24th March, 1975*

**No. 1-28/75-VS.**—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1973, the Motor Vehicles (Himachal Pradesh

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Amendment) Bill, 1975 (Bill No. 16 of 1975) having been introduced in the Legislative Assembly on the 24th March, 1975, is hereby published in the Government Gazette.

S. S. KANWAR,  
*Secretary.*

Bill No. 16 of 1975

THE MOTOR VEHICLES(HIMACHAL PRADESH AMENDMENT)  
BILL, 1975

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A  
BILL

*to amend the Motor Vehicles Act, 1939 (Central Act No. IV of 1939),  
in its application to the State of Himachal Pradesh.*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the  
Twenty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Motor Vehicles (Himachal Pradesh  
Amendment) Act, 1975.

Short title  
and com-  
mencement

(2) It shall come into force at once.

2. After section 44 of the Motor Vehicles Act, 1939 (hereinafter  
referred to as the principal Act) the following sections "44-A" and "44-B"  
shall be inserted, namely:—

Insertion of  
new sec-  
tions 44-A  
& 44-B.

*"44-A. Power of State Government to issue orders and directions to  
Transport Authorities.—*

The State Government may issue and publish in such manner as  
may be prescribed such orders and directions of a general character  
as it may consider necessary, in respect of any matter relating to  
road transport, to the State Transport Authority or a Regional  
Transport Authority; and such Transport Authority shall give  
effect to all such orders and directions.

*44-B. State Transport Commissioner and Joint Transport Commissioner  
or their subordinates to exercise notified powers.—*

The State Government may appoint a State Transport Commissioner  
and one or more Joint Transport Commissioners and notwith-  
standing anything contained in this Act, may, by notification,  
authorise such Commissioner and Joint Transport Commissioners  
or any officer subordinate to them, to exercise and discharge in  
lieu of licensing authority under Chapters II and II-A, register-  
ing authority under Chapter III and State Transport Authority  
under Chapter IV and prescribed authority under any of the  
said Chapters, such powers and functions, as may be specified  
in the notification."

3. In section 62 of the principal Act, in sub-section (1),—

(i) at the end of clause (d), the word "or" shall be inserted ; and  
(ii) after clause (d), the following new clause (e) shall be inserted,  
namely:—

Amendment  
of section  
62.

*"(e) in such circumstances as may, in the opinion of such  
authority justify the grant of such permits ;"*

Amendment  
of section  
64.

4. In section 64 of the principal Act,—

(a) in sub-section (1),—

(i) at the end of clause (i), the word “or” shall be inserted; and

(ii) after clause (i), the following new clause (j) shall be inserted, namely:—

“(j) aggrieved by an order of State Transport Commissioner or Joint Transport Commissioner or Officer subordinate to them in exercise and discharge of such powers and functions with which they have been specifically authorised under section 44-B,”; and

(b) in sub-section (2) the words “whole-time” shall be deleted.

Repeal and  
savings.

5. (1) The Motor Vehicles (East Punjab Amendment) Act, 1948, and the Motor Vehicles (Punjab Amendment) Act, 1955, in their application to the territories added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, are hereby repealed.

28 of 1948

31 of 1955

31 of 1966

(2) Notwithstanding any such repeal, anything done or any action taken, including any orders, notifications, issued or rules made in exercise of the powers conferred by or under any of the repealed Acts, shall to the extent of being consistent with the provisions of this Act, be deemed to have been done or taken in exercise of the powers conferred by or under this Act.



## STATEMENT OF OBJECTS AND REASONS

At present the Motor Vehicles Act, 1939 (Central Act IV of 1939) is in force, with different modifications and provisions of law, in the two different areas of Himachal Pradesh viz. the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, and the areas comprised in Himachal Pradesh immediately before 1st November, 1966. With a view to bringing about uniformity throughout Himachal Pradesh it is necessary to have a unified law for the whole of Himachal Pradesh repealing the Punjab Amending Act No.28 of 1948 and 31 of 1955. This Bill seeks to achieve this object.

RAM LAL,  
*Minister-in-charge.*

The SIMLA:  
th March, 1975.

## FINANCIAL MEMORANDUM

NIL

## MEMORANDUM REGARDING DELEGATED LEGISLATION

The State Government is proposed to be empowered to issue orders and directions of a general character in respect of any matter relating to road transport to the State Transport Authority or a Regional Transport Authority under clause 2 of the Bill. Besides, the State Government is proposed to be vested with the powers to authorise the State Transport Commissioner, Joint Transport Commissioners or any Officer subordinate to them to exercise and discharge in lieu of Licensing Authority under Chapters II and II-A, Registering Authority under Chapter III and State Transport Authority under Chapter IV of the Motor Vehicles Act, 1939 and the prescribed authority under any of the said Chapters such powers and functions as deemed fit, under the same clause of the Bill.

*Simla-4, the 24th March, 1975*

**No. 1-33/75-VS.**—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1973, the Himachal Pradesh Lokayukta and Upa-Lokayuktas Bill, 1975 (Bill No. 17 of 1975) having been introduced in the Legislative Assembly on the 24th March, 1975, is hereby published in the Government Gazette.

S. S. KANWAR,  
*Secretary.*

Bill No. 17 of 1975

# THE HIMACHAL PRADESH LOKAYUKTA AND UPA-LOKAYUKTAS BILL, 1975

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

## BILL

*to make provision for the appointment and functions of certain authorities for the investigation of administrative action taken by or on behalf of the Government or certain public authorities in certain cases and for matters connected therewith.*

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Lokayukta and Upa-Lokayuktas Act, 1975.

Short title,  
extent and  
commence-  
ment.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “action” means action taken by way of decision, recommendation of finding or in any other manner and includes failure to act; and all other expressions connoting action shall be construed accordingly;

(b) “allegation”, in relation to a public servant, means any affirmation that such public servant,—

(i) has abused his position as such to obtain any gain or favour to himself or to any other person or to cause undue harm or hardship to any other person,

(ii) was actuated in the discharge of his functions as such public servant by personal interest or improper or corrupt motives, or

(iii) is guilty of corruption, or lack of integrity in his capacity as such public servant;

(c) “competent authority”, in relation to a public servant, means,—

(i) in the case of a Minister or Secretary, the Chief Minister,

(ii) in the case of any other public servant, such authority as may be prescribed;

(d) “grievance” means a claim by a person that he sustained injustice or undue hardship in consequence of maladministration;

- (e) "Lokayukta" means a person appointed as the Lokayukta under section 3;
- (f) "Upa-Lokayukta" means a person appointed as an Upa-Lokayukta under section 3 or section 5;
- (g) "maladministration" means action taken or purporting to have been taken in the exercise of administrative functions in any case,—
- (i) where such action or the administrative procedure or practice governing such action is unreasonable, unjust, oppressive or improperly discriminatory; or
- (ii) where there has been negligence or undue delay in taking such action, or the administrative procedure or practice governing such action involves undue delay;
- (h) "Minister" means a member (other than the Chief Minister) of the Council of Ministers, by whatever name called, for the State of Himachal Pradesh, that is to say, a Minister, Minister of State, Deputy Minister, Chief Parliamentary Secretary and Parliamentary Secretary;
- (i) "officer" means a person appointed to a public service or post in connection with the affairs of the State of Himachal Pradesh;
- (j) "prescribed" means prescribed by rules made under this Act;
- (k) "public servant" denotes a person falling under any of the descriptions hereinafter following, namely:—
- (i) every Minister referred to in clause (h);
- (ii) every officer referred to in clause (i);
- (iii) (a) every Chairman and Vice-Chairman of a Zila Parishad, Chairman and Vice-Chairman of a Panchayat Samiti, Pradhan and Up-Pradhan of Gram Panchayat and Sarpanch and Naib-Sarpanch of a Nyaya Panchayat, and Chairman of the Standing or any Subjects Committee, constituted under the Himachal Pradesh Panchayati Raj Act, 1968;
- (b) every President and Vice-President of a Municipal Committee and Chairman of the Standing or any Subjects Committee constituted or deemed to be constituted under the Himachal Pradesh Municipal Act, 1968 ;
- (iv) every person in the service or pay of,—
- (a) any local authority in the State of Himachal Pradesh, which is notified by the State Government in this behalf in the Official Gazette,
- (b) any corporation or any other statutory body (not being a local authority) established by or under a State or Provincial Act and owned or controlled by the State Government,
- (c) any Government company within the meaning of section 617 of the Companies Act, 1956, in which not less than fifty-one per cent. of the paid up share capital is held by the State Government, or any company which is a subsidiary of a company in which not less than fifty-one per cent. of the paid up share capital is held by the State Government,

19 of 1970

19 of 1968

1 of 1956

1860

(d) any society registered under the Societies Registration Act, 1860, which is subject to the control of the State Government and which is notified by the Government in this behalf in the Official Gazette;

(l) "Secretary" means a Secretary to the Government of Himachal Pradesh and includes a Secretary, an Additional Secretary and a Joint Secretary.

3. (1) For the purpose of conducting investigations in accordance with the provisions of this Act, the Governor shall, by warrant under his hand and seal, appoint a person to be known as the Lokayukta and one or more persons to be known as Upa-Lokayukta or Upa-Lokayuktas:

Appointment of Lokayukta and Upa-Lokayuktas.

Provided that,—

(a) the Lokayukta shall be appointed after consultation with the Chief Justice of the High Court and the Leader of the Opposition in the Legislative Assembly, or if there be no such Leader, a person elected in this behalf by the Members of the Opposition in that House in such manner as the Speaker may direct;

(b) the Upa-Lokayukta or Upa-Lokayuktas shall be appointed after consultation with the Lokayukta.

(2) Every person appointed as the Lokayukta or an Upa-Lokayukta shall, before entering upon his office, make and subscribe, before the Governor or some person appointed in that behalf by him, an oath or affirmation in the form set out for the purpose in the First Schedule.

(3) The Upa-Lokayuktas shall be subject to the administrative control of the Lokayukta and, in particular, for the purpose of convenient disposal of investigations under this Act, the Lokayukta may issue such general or special directions as he may consider necessary to the Upa-Lokayuktas:

Provided that, nothing in this sub-section shall be construed to authorise the Lokayukta to question any finding, conclusion or recommendation of an Upa-Lokayukta.

4. The Lokayukta or an Upa-Lokayukta shall not be a member of Parliament or a member of the Legislature of any State and shall not hold any office of trust or profit (other than his office as the Lokayukta or, as the case may be, an Upa-Lokayukta), or be connected with any political party or carry on any business or practise any profession; and accordingly before he enters upon his office, a person appointed as the Lokayukta or, as the case may be, an Upa-Lokayukta, shall,—

Lokayukta or Upa-Lokayuktas to hold no other office.

(a) if he is a member of Parliament or of the Legislature of any State, resign such membership; or

(b) if he holds any office of trust or profit, resign from such office; or

(c) if he is connected with any political party, sever his connection with it; or

(d) if he is carrying on any business, sever his connection (short of divesting himself of ownership) with the conduct and management of such business; or

(e) if he is practising any profession, suspend practice of such profession; or

(f) if he is a secretary or chairman of the management of any school or college, resign from the same, or

(g) if he is a chairman, secretary or treasurer of any co-operative institution, resign from the same.

Terms of office and other conditions of service of Lokayukta and Upa-Lokayukta.

5. (1) Every person appointed as Lokayukta or Upa-Lokayukta shall hold office for a term of five years from the date on which he enters upon his office:

Provided that,—

- (a) the Lokayukta or an Upa-Lokayukta may, by writing under his hand addressed to the Governor, resign his office;
- (b) the Lokayukta or an Upa-Lokayukta may be removed from the office in the manner specified in section 7.

(2) If the office of the Lokayukta or an Upa-Lokayukta becomes vacant, or if the Lokayukta or an Upa-Lokayukta is, by reason of absence or for any other reason whatsoever, unable to perform the duties of his office, those duties shall, until some other person appointed under section 3 enters upon such office or, as the case may be, until the Lokayukta or such Upa-Lokayukta resumes his duties, be performed,—

- (a) where the office of the Lokayukta becomes vacant or where he is unable to perform the duties of his office, by the Upa-Lokayukta or if there are two or more Upa-Lokayuktas by such one of the Upa-Lokayuktas as the Governor may by order direct;
- (b) where the office of an Upa-Lokayukta becomes vacant or where he is unable to perform the duties of his office, by the Lokayukta himself, or if the Lokayukta so directs, by the other Upa-Lokayuktas as may be specified in the direction.

(3) On ceasing to hold office, the Lokayukta or an Upa-Lokayukta shall be ineligible for further employment (whether as the Lokayukta or an Upa-Lokayukta or in any capacity) under the Government of Himachal Pradesh or for any employment under, or office in, any such local authority, corporation, Government company or society as is referred to in sub-clause (iv) of clause (k) of section 2.

(4) There shall be paid to the Lokayukta and the Upa-Lokayuktas such salaries as are specified in the Second Schedule.

(5) The allowances and pension payable to, and other conditions of service, of the Lokayukta or an Upa-Lokayukta shall be such as may be prescribed:

Provided that,—

- (a) in prescribing the allowances and pension payable to and other conditions of service of the Lokayukta, regard shall be had to the allowances and pension payable to and other conditions of service of the Chief Justice of the High Court;
- (b) in prescribing the allowances, and pension payable to, and other conditions of service of, the Upa-Lokayuktas, regard shall be had to the allowances and pension payable to, and other conditions of service of a Judge of the High Court:

Provided further that, the allowances and pension payable to, and other conditions of service of, the Lokayukta or an Upa-Lokayukta shall not be varied to his disadvantage after his appointment.

6. Notwithstanding anything contained in sections 3, 4 and 5, a serving Judge of a High Court may be appointed Lokayukta for a period not exceeding two years and he will get such salary and allowances as may be admissible to him as a Judge of the High Court.

Provision regarding appointment of serving Judge of a High Court as a Lokayukta.

7. (1) Subject to the provisions of Article 311 of the Constitution, the Lokayukta or an Upa-Lokayukta may be removed from his office by the Governor on the ground of misbehaviour or incapacity, and on no other ground:

Removal of Lokayukta or Upa-Lokayukta.

Provided that the inquiry required to be held under clause (2) of the said Article before such removal—

- (i) in respect of Lokayukta shall only be held by a person appointed by the Governor being a person who is or has been a Judge of the Supreme Court or a Chief Justice of a High Court; and
- (ii) in respect of an Upa-Lokayukta shall be held by a person appointed by the Governor being a person who is or has been a Judge of the Supreme Court or who is or has been a Judge of a High Court.

(2) The person appointed under the proviso to sub-section (1) shall submit the report of his inquiry to the Governor, who shall, as soon as may be, cause it to be laid before the State Legislature.

(3) Notwithstanding anything contained in sub-section (1), the Governor shall not remove the Lokayukta or an Upa-Lokayukta unless an address by the State Legislature supported by a majority of the total membership of the House and a majority of not less than two-thirds of the members of the House present and voting, has been presented to the Governor in the same session for such removal.

8. (1) Subject to the provisions of this Act, the Lokayukta may investigate any action which is taken by, or with the general or specific approval of,—

Matters which may be investigated by Lokayukta or Upa-Lokayukta

- (i) a Minister or a Secretary; or
- (ii) any public servant referred to in sub-clause (iii) of clause (k) of section 2; or
- (iii) any other public servant being a public servant of a class or subclass of public servants notified by the State Government in consultation with the Lokayukta, in this behalf,

in any case where a complaint involving a grievance or an allegation is made in respect of such action or such action can be or could have been, in the opinion of the Lokayukta, the subject of a grievance or an allegation.

(2) Subject to the provisions of this Act, an Upa-Lokayukta may investigate any action which is taken by, or with the general or specific approval of, any public servant not being a Minister, Secretary or other public servant referred to in sub-section (1) in any case where a complaint involving a grievance or an allegation is made in respect of such action or such action can be or could have been, in the opinion of the Upa-Lokayukta, the subject of a grievance or an allegation.

(3) Notwithstanding anything contained in sub-section (2), the Lokayukta may, for reasons to be recorded in writing, investigate any action which may be investigated by an Upa-Lokayukta under that sub-section

whether or not a complaint has been made to the Lokayukta in respect of such action.

(4) Where two or more Upa-Lokayuktas are appointed under this Act, the Lokayukta may, by general or special order, assign to each of them matters which may be investigated by them under this Act:

Provided that, no investigation made by an Upa-Lokayukta under this Act and no action taken or thing done by him in respect of such investigation shall be open to question on the ground only that such investigation relates to a matter which is not assigned to him by such order.

Matters not  
subject to  
investiga-  
tion.

9. (1) Except as hereinafter provided, the Lokayukta or an Upa-Lokayukta shall not conduct any investigation under this Act in the case of a complaint involving a grievance in respect of any action,—

(a) if such action relates to any matter specified in the Third Schedule;  
or

(b) if the complainant has or had any remedy by way of proceedings before any tribunal or court of law:

Provided that, the Lokayukta or an Upa-Lokayukta may conduct an investigation notwithstanding that the complainant had or has such a remedy if the Lokayukta or, as the case may be, the Upa-Lokayukta is satisfied that such person could not or cannot, for sufficient cause, have recourse to such remedy.

(2) The Lokayukta or an Upa-Lokayukta shall not investigate any action,—

(a) in respect of which a formal and public inquiry has been ordered under the Public Servants (Inquiries) Act, 1850, with the prior concurrence of the Lokayukta; or 37 of 1850

(b) in respect of a matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952, with the prior concurrence of the Lokayukta. 60 of 1952

(3) The Lokayukta or an Upa-Lokayukta shall not investigate any complaint involving a grievance against a public servant referred to in sub-clause (iv) of clause (k) of section 2.

(4) The Lokayukta or an Upa-Lokayukta shall not investigate any complaint which is excluded from his jurisdiction by virtue of a notification issued under section 19.

(5) The Lokayukta or an Upa-Lokayukta shall not investigate,—

(a) any complaint involving a grievance, if the complaint is made after the expiry of twelve months from the date on which the action complained against becomes known to the complainant;

(b) any complaint involving an allegation, if the complaint is made after the expiry of three years from the date on which the action complained against is alleged to have taken place:

Provided that the Lokayukta or an Upa-Lokayukta may entertain a complaint referred to in clause (a), if the complainant satisfies him that he had sufficient cause for not making the complaint within the period specified in that clause.

(6) In the case of any complaint involving a grievance, nothing in this Act shall be construed as empowering the Lokayukta or an Upa-Lokayukta to question any administrative action involving the exercise of a discretion



except where he is satisfied that the elements involved in the exercise of the discretion are absent to such an extent that the discretion can *prima facie* be regarded as having been improperly exercised.

10. (1) Subject to the provisions of this Act, a complaint may be made under this Act to the Lokayukta or an Upa-Lokayukta,—

Provisions  
relating to  
complaints.

(a) in the case of a grievance, by the person aggrieved;

(b) in the case of an allegation, by any person other than a public servant:

Provided that, where the person aggrieved is dead or is for any reason unable to act for himself, the complaint may be made by any person who in law represents his estate or, as the case may be, by any person who is authorised by him in this behalf.

(2) Every complaint shall be made in such form and shall be accompanied by such affidavits as may be prescribed.

(3) Notwithstanding anything contained in any other enactment, any letter written to the Lokayukta or an Upa-Lokayukta by a person in police custody, or in a jail or in any asylum or other place for insane persons, shall be forwarded to the addressee unopened and without delay by the police officer or other person in charge of such jail, asylum or other place and the Lokayukta or Upa-Lokayukta, as the case may be, may, if satisfied that it is necessary so to do, treat such letter as a complaint made in accordance with the provisions of sub-section (2).

(4) Notwithstanding anything contained in section 11 or any other provision of this Act every person who wilfully or maliciously makes any false complaint under this Act shall, on conviction, be punished with imprisonment for a term which may extend to three years, and shall also be liable to fine. No court shall take cognizance of such offence except with the previous sanction of the Lokayukta.

11. (1) Where the Lokayukta or an Upa-Lokayukta proposes (after making such preliminary inquiry, as he deems fit) to conduct any investigation under this Act, he,—

Procedure  
in respect  
of investiga-  
tions.

(a) shall forward a copy of the complaint or, in the case of any investigation which he proposes to conduct on his own motion, a statement setting out the grounds therefor, to the public servant concerned and the competent authority concerned;

(b) shall afford to the public servant concerned an opportunity to offer his comments on such complaint or statement; and

(c) may make such orders as to the safe custody of documents relevant to the investigation, as he deems fit.

(2) Every such investigation shall be conducted in private and in particular, the identity of the complainant and of the public servant affected by the investigation shall not be disclosed to the public or the press whether before, during or after the investigation:

Provided that, the Lokayukta or an Upa-Lokayukta may conduct any investigation relating to a matter of definite public importance in public, if he, for reasons to be recorded in writing, thinks fit to do so.

(3) Save as aforesaid the procedure for conducting any such investigation shall be such as the Lokayukta or, as the case may be, the Upa-Lokayukta considers appropriate in the circumstances of the case.

(4) The Lokayukta or an Upa-Lokayukta may, in his discretion, refuse to investigate or cease to investigate any complaint involving a grievance or an allegation, if in his opinion—

- (a) the complaint is frivolous or vexatious, or is not made in good faith; or
- (b) there are no sufficient grounds for investigation or, as the case may be, for continuing the investigation; or
- (c) other remedies are available to the complainant and in the circumstances of the case it would be more proper for the complainant to avail of such remedies.

(5) In any case where the Lokayukta or an Upa-Lokayukta decides not to entertain a complaint or to discontinue any investigation in respect of a complaint, he shall record his reasons therefor and communicate the same to the complainant and the public servant concerned.

(6) The conduct of an investigation under this Act in respect of any action shall not affect such action, or any power or duty of any public servant to take further action with respect to any matter subject to the investigation.

Evidence.

12. (1) Subject to the provisions of this section, for the purpose of any investigation (including the preliminary inquiry, if any, before such investigation) under this Act, the Lokayukta or an Upa-Lokayukta may require any public servant or any other person who in his opinion is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document.

(2) For the purpose of any such investigation (including the preliminary inquiry), the Lokayukta or an Upa-Lokayukta shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any court or office;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) such other matters as may be prescribed.

(3) Any proceeding before the Lokayukta or an Upa-Lokayukta shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code.

(4) Subject to the provisions of sub-section (5), no obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to the State Government of any public servant, whether imposed by any enactment or by any rule of law, shall apply to the disclosure of information for the purposes of any investigation under this Act and the State Government or any public servant shall not be entitled in relation to any such investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by any enactment or by any rule of law in legal proceedings.

5 of 1908

45 of 1860

(5) No person shall be required or authorised by virtue of this Act to furnish any such information or answer any such question or produce so much of any document,—

- (a) as might prejudice the security or defence or international relations of India (including India's relations with the Government of any other country or with any international organisation), or the investigation or detection of crime; or
- (b) as might involve the disclosure of proceedings of the cabinet of the State Government or any committee of that cabinet,

and for the purpose of this sub-section a certificate issued by the Chief Secretary certifying that any information, answer or portion of a document is of the nature specified in clause (a) or clause (b), shall be binding and conclusive.

(6) Subject to the provisions of sub-section (4), no person shall be compelled for the purposes of investigation under this Act to give any evidence or produce any document which he could not be compelled to give or produce in proceedings before a court.

13. (1) If, after investigation of any action in respect of which a complaint involving a grievance has been or can be or could have been made, the Lokayukta or an Upa-Lokayukta is satisfied that such action has resulted in injustice or undue hardship to the complainant or any other person, the Lokayukta or Upa-Lokayukta shall, by a report in writing, recommend to the public servant and the competent authority concerned that such injustice or undue hardship shall be remedied or redressed in such manner and within such time as may be specified in the report.

Reports of Lokayukta and Upa-Lokayukta.

(2) The competent authority to whom a report is sent under sub-section (1) shall, within one month of the expiry of the term specified in the report, intimate or cause to be intimated to the Lokayukta or, as the case may be, the Upa-Lokayukta, the action taken for compliance with the report.

(3) If, after investigation of any action in respect of which a complaint involving an allegation has been or can be or could have been made, the Lokayukta or an Upa-Lokayukta is satisfied that such allegation can be substantiated either wholly or partly, he shall by report in writing communicate his findings and recommendations along with the relevant documents, materials and other evidence to the competent authority.

(4) The competent authority shall examine the report forwarded to it under sub-section (3) and intimate within three months of the date of receipt of the report, the Lokayukta or, as the case may be, the Upa-Lokayukta, the action taken or proposed to be taken on the basis of the report.

(5) If the Lokayukta or the Upa-Lokayukta is satisfied with the action taken or proposed to be taken on his recommendations or findings referred to in sub-sections (1) and (3), he shall close the case under information to the complainant, the public servant and the competent authority concerned but where he is not so satisfied and if he considers that the case so deserves, he may make a special report upon the case to the Governor and also inform the complainant concerned:

Provided that no such special report shall be made in respect of any action taken in consultation with the Himachal Pradesh Public Service Commission.

(6) The Lokayukta and the Upa-Lokayuktas shall present annually a consolidated report on the performance of their functions under this Act to the Governor.

(7) Where an adverse comment against any person or department or organisation has been made in any annual or special report, such report shall also contain the substance of the defence adduced by the person complained against, the comments made by or on behalf of the department or organisation affected.

(8) On receipt of a special report under sub-section (5), or the annual report under sub-section (6), the Governor shall cause a copy thereof together with an explanatory memorandum to be laid before the State Legislature.

(9) Subject to the provisions of sub-section (2) of section 10, the Lokayukta may at his discretion make available, from time to time, the substance of cases closed or otherwise disposed of by him or by an Upa-Lokayukta, which may appear to him to be of general public, academic or professional interest, in such manner and to such persons as he may deem appropriate.

Staff of  
Lokayukta  
and Upa-  
Lokayukta.

14. (1) The Lokayukta may appoint, or authorise an Upa-Lokayukta or any Officer subordinate to the Lokayukta or an Upa-Lokayukta to appoint, officers and other employees to assist the Lokayukta and the Upa-Lokayuktas in the discharge of their functions under this Act.

(2) The categories of officers and employees who may be appointed under sub-section (1), their salaries, allowances and other conditions of service and the administrative powers of the Lokayukta and Upa-Lokayuktas shall be such as may be prescribed, after consultation with the Lokayukta.

(3) Without prejudice to the provisions of sub-section (1), the Lokayukta or an Upa-Lokayukta may for the purpose of conducting investigations under this Act utilize the services of—

- (i) any officer or investigation agency of the State or Central Government with the concurrence of that Government; or
- (ii) any other person or agency.

Secrecy of  
information.

15. (1) Any information obtained by the Lokayukta or the Upa-Lokayuktas or members of their staff in the course of, or for the purposes of any investigation under this Act, and any evidence recorded or collected in connection with such information, shall, subject to the provisions of the proviso to sub-section (2) of section 11, be treated as confidential and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall be entitled to compel the Lokayukta or an Upa-Lokayukta or any public servant to give evidence relating to such information or produce the evidences so recorded or collected.

1 of 1872

(2) Nothing in sub-section (1) shall apply to the disclosure of any information or particulars,—

- (a) for purposes of the investigation or in any report to be made thereon or for any action or proceedings to be taken on such report; or
- (b) for purposes of any proceedings for an offence under the Official Secrets Act, 1923, or an offence of giving or fabricating false evidence under the Indian Penal Code or for purposes of any proceedings under section 16; or

19 of 1923  
45 of 1860

(c) for such other purposes as may be prescribed.

(3) An officer or other authority prescribed in this behalf may give notice in writing to the Lokayukta or an Upa-Lokayukta, as the case may be, with respect to any documents or information specified in the notice or any class of documents so specified that in the opinion of the State Government the disclosure of the documents or information or of documents or information of that class would be contrary to public interest and where such a notice is given, nothing in this Act shall be construed as authorising or requiring the Lokayukta, the Upa-Lokayukta or any member of their staff to communicate to any person any document or information specified in the notice or any document or information of a class so specified.

(4) No person shall subject to the provisions of the proviso to sub-section (2) of section 11 publish any proceedings relating to an investigation which is pending before the Lokayukta or Upa-Lokayukta as the case may be; nor shall any person publish such proceedings after the investigation is completed unless prior permission for the publication is obtained from the Lokayukta, or the Upa-Lokayukta, as the case may be.

(5) Whoever contravenes the provisions of sub-section (4) shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

(6) Nothing in sub-sections (4) and (5) shall apply to the publication of any report laid before Legislative Assembly under sub-section (8) of section 13.

16. (1) Whoever intentionally offers any insult, or causes any interruption to the Lokayukta or an Upa-Lokayukta while the Lokayukta or the Upa-Lokayukta is conducting any investigation under this Act, shall on conviction, be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Intentional  
insult or in-  
terruption  
to or bring-  
ing into dis-  
repute  
Lokayukta  
or Upa-  
Lokayuk-  
ta.

(2) Whoever, by words spoken or intended to be read, makes or publishes any statement or does any other act, which is calculated to bring the Lokayukta or an Upa-Lokayukta into disrepute, shall, on conviction, be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

(3) The provisions of section 199 of the Code of Criminal Procedure, 1973, shall apply in relation to an offence under sub-section (1) or sub-section (2) as they apply in relation to an offence referred to in sub-section (2) of the said section 199, subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction,—

(a) in the case of an offence against the Lokayukta, of the Lokayukta;

(b) in the case of an offence against an Upa-Lokayukta, of the Upa-Lokayukta concerned.

17. (1) No suit, prosecution or other legal proceedings shall lie against the Lokayukta or the Upa-Lokayuktas or against any officer, employee, agency or person referred to in section 14 in respect of anything which is in good faith done or intended to be done under this Act.

Protection.

(2) No proceedings of the Lokayukta or the Upa-Lokayuktas shall be held bad for want of form and except on the ground of jurisdiction, no proceedings or decision of the Lokayukta or the Upa-Lokayuktas shall be

Conferment  
of addition-  
al functions  
on Lokayu-  
kta and  
Upa-Loka-  
yuktas etc.

liable to be challenged, reviewed, quashed or called in question in any court.

18. (1) The Governor may, by notification published in the Official Gazette, and after consultation with the Lokayukta, confer on the Lokayukta or an Upa-Lokayukta, as the case may be, such additional functions in relation to the redress of grievances and eradication of corruption as may be specified in the notification.

(2) The Governor may, by order in writing and after consultation with the Lokayukta, confer on the Lokayukta or an Upa-Lokayukta such powers of a supervisory nature over agencies, authorities or officers set up, constituted or appointed by the State Government for the redress of grievances and eradication of corruption.

(3) The Governor may, by order in writing and subject to such conditions and limitations as may be specified in the order, require the Lokayukta to investigate any action (being action in respect of which a complaint may be made under the Act to the Lokayukta or an Upa-Lokayukta), and notwithstanding anything contained in this Act the Lokayukta shall comply with such order:

Provided that the Lokayukta may entrust investigation of any such action (being action in respect of which a complaint may be made under this Act to an Upa-Lokayukta) to an Upa-Lokayukta.

(4) When any additional functions are conferred on the Lokayukta or an Upa-Lokayukta under sub-section (1), or when the Lokayukta or an Upa-Lokayukta is to investigate any action under sub-section (3), the Lokayukta or Upa-Lokayukta shall exercise the same powers and discharge the same functions as he would in the case of any investigation made on a complaint involving a grievance or an allegation, as the case may be, and the provisions of this Act shall apply accordingly.

Power to  
exclude  
complaints  
against cer-  
tain classes  
of public  
servants.

19. (1) The State Government may on the recommendations of the Lokayukta and on being satisfied that it is necessary or expedient in the public interest so to do, exclude, by notification in the Official Gazette, complaints, involving grievances or allegations or both against persons belonging to any class of public servants specified in the notification from the jurisdiction of the Lokayukta or, as the case may be, Upa-Lokayukta:

Provided that, no such notification shall be issued in respect of a public servant of gazetted rank.

(2) Every notification issued under sub-section (1) shall be laid, as soon as may be after it is issued, before the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the House agrees in making any modification in the notification or the House agrees that the notification should not be made, and notify such decision in the Official Gazette, the notification shall from the date of publication of such decision have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done by virtue of that notification.

Power to  
delegate.

20. The Lokayukta or an Upa-Lokayukta may, by a general or special order in writing, direct that any powers conferred or duties imposed on him by or under this Act (except the power to make reports to the Governor



under section 13) may also be exercised or discharged by such of the officers, employment or agencies referred to in section 14, as may be specified in the order.

21. (1) The Governor may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

Power to make rules.

(2) In particulars, and without prejudice to the generality of the foregoing provisions such rules may provide for—

- (a) the authorities for the purpose required to be described under sub-clause (ii) of clause (c) of section 2;
- (b) the allowances and pension payable to and other conditions of service, of the Lokayukta and Upa-Lokayuktas;
- (c) the form in which, complaints may be made and the fees, if any, which may be charged in respect thereof;
- (d) the power of a civil court which may be exercised by the Lokayukta or an Upa-Lokayukta;
- (e) any other matter which is to be or may be prescribed or in respect of which this Act makes no provision or makes insufficient provision and provision is in the opinion of the Governor necessary for the proper implementation of this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be, so, however that, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

22. For the removal of the doubts it is hereby declared that nothing in this Act shall be construed to authorise the Lokayukta or an Upa-Lokayukta to investigate any allegation against—

Removal of doubts.

- (a) the Chief Justice or any Judge of the High Court or a member of Judicial Service as defined in clause (b) of Article 236 of the Constitution;
- (b) any officer or servant of any court in India;
- (c) the Accountant General, Himachal Pradesh;
- (d) the Chairman or a Member of the Himachal Pradesh Public Service Commission;
- (e) the Chief Election Commissioner, the Election Commissioners and Regional Commissioners referred to in Article 324 of the Constitution and the Chief Electoral Officer, Himachal Pradesh;
- (f) the Speaker and the Deputy Speaker of the Himachal Pradesh Legislative Assembly;
- (g) any member of the Secretariate staff of the Himachal Pradesh Legislative Assembly;
- (h) any Class III or IV servant of the Government.

23. The provisions of this Act shall be in addition to the provisions of any other enactment or any rule of law under which any remedy by way of appeal, revision, review or in any other manner is available to a person making a complaint under this Act in respect of any action, and

Savings.

nothing in this Act shall limit or affect the right of such person to avail of such remedy.

### THE FIRST SCHEDULE

[(See section 3(2))]

I.....having been appointed Lokayukta/Upa-Lokayukta do swear in the name of God/solemnly affirm that I will bear faith and allegiance to the Constitution of India as bylaw established, and I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office, without fear or favour, affection or ill-will.

### THE SECOND SCHEDULE

[See section 5(4)]

There shall be paid to the Lokayukta and the Upa-Lokayuktas in respect of time spent on actual service, salary at the following rates per mensem, that is to pay:—

Lokayukta .. .. .	4,000 rupees
Upa-Lokayukta .. .. .	3,500 rupees

Provided that, if the Lokayukta or an Upa-Lokayukta at the time of his appointment is in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or any of its predecessor Government or under the Government of a State or any of its predecessor Governments, his salary in respect of service as the Lokayukta or, as the case may be, Upa-Lokayukta shall be reduced—

- (a) by the amount of that pension, and
- (b) if he has, before such appointment, received in lieu of a portion of the pension due to him in respect of such previous service the commuted value thereof, by the amount of that portion of the pension, and
- (c) if he has, before such appointment, received a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity.

### THE THIRD SCHEDULE

[See section 9(1)(a)]

- (a) Action taken under the Extradition Act, 1962 or the Foreigners Act, 1946.
- (b) Action taken for the purpose of investigating crime or protecting the security of the State.
- (c) Action taken in the exercise of powers in relation to determining whether a matter shall go to a court or not.
- (d) Action taken in matters which arise out of the terms of a contract governing purely commercial relations of the administration with customers or suppliers, except where the complainant alleges harassment of gross delay in meeting contractual obligations.
- (e) Action taken in respect of appointments, removals, pay, discipline, superannuation or other matters relating to conditions of service of public servants but not including action relating to claims for pension, gratuity, provident fund or to any claims which arise on retirement, removal or termination of service.
- (f) Grant of honours and awards.



## STATEMENT OF OBJECTS AND REASONS

The main purpose of the proposed Bill is to make the provision for the creation of the machinery for the investigation of the administrative action taken by or on behalf of the Government or certain public authorities in certain cases and for matters connected therewith. In other words it tends to explore the ways and means to remove the genuine discontentment amongst the people and to promote the sense of satisfaction with and recognition of merits of the action taken in pursuance of the State policies. The Bill seeks to provide for quick and cheap justice to the public at large.

Y. S. PARMAR,  
*Chief Minister.*

SIMLA :  
*March, 1975.*

*The*

## FINANCIAL MEMORANDUM

Clause 3(1) of the Bill provides for the appointment of a person to be known as the Lokayukta and one or more persons to be known as the Upa-Lokayukta or Upa-Lokayuktas. Clause 5(4) of the Bill also envisages that the salaries, allowances and other conditions of service of the Lokayukta and the Upa-Lokayuktas shall be such as may be prescribed. It however, provides that in prescribing salaries, allowances and other conditions of service of the Lokayukta and the Upa-Lokayuktas regard shall be had to the salaries, allowances and other conditions of service of the Chief Justice of High Court and a Judge of the High Court, respectively. Clause 13 provides for the appointment of staff of the Lokayukta and the Upa-Lokayuktas. The salaries and other conditions of service of the staff of the Lokayukta and Upa-Lokayuktas are to be prescribed by rules after consultation with the Lokayukta. It is thus not possible to give precise details of the expenditure involved. Tentatively Rs. 585,000 are required per annum for the maintenance of the institution.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill empowers the State Government to make rules for the purpose of carrying into effect the provisions of the proposed enactment. The various matters in relations to which such rules may be made have been detailed in the various items of sub-clause(2) of that clause and relate mainly to the salaries, allowances and conditions of service of the Lokayukta and the Upa-Lokayuktas, the procedure to be followed in making complaints, the power of a civil court which may be exercised by the Lokayukta and the Upa-Lokayuktas etc. These are matters necessary for the effective administration of the provisions of the Bill and it is difficult to provide for all situations in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

RECOMMENDATIONS OF THE GOVERNOR UNDER  
ARTICLE 207 OF THE CONSTITUTION OF INDIA

(N/136 of the Vigilance Department File No. 8-1/73-Vig.)

The Governor of Himachal Pradesh, having been informed of the subject matter of the Himachal Pradesh Lokayukta and Upa-Lokayuktas Bill 1975, recommends, under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly.

*Simla-4, the 24th March, 1975*

**No. 1-31/75-VS.**—In pursuance to rule 135 of the Rules of Procedure and Conduct of Business of the Himachal Pradesh Legislative Assembly, 1973, the Public Gambling (Himachal Pradesh Amendment) Bill, 1975, (Bill No. 19 of 1975) having been introduced in the Legislative Assembly on the 24th March, 1975, is hereby published in Government Gazette.

S. S. KANWAR,  
Secretary.

Bill No. 19 of 1975

# THE PUBLIC GAMBLING (HIMACHAL PRADESH AMENDMENT) BILL, 1975

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

## BILL

to amend the Public Gambling Act, 1867 (Central Act No. III of 1867), in its application to the State of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Public Gambling (Himachal Pradesh Amendment) Act, 1975.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall come into force at once.

Short title,  
extent and  
commence-  
ment.

3 of 1867

2. For the definition of "Common gaming-house" in section 1 of the Public Gambling Act, 1867 (hereinafter referred to as the principal Act) the following definitions shall be deemed to be substituted, namely:—

Amendment  
of section 1:

"Gaming" includes wagering or betting on any figures or numbers or dates to be subsequently ascertained or disclosed, or on the occurrence or non-occurrence of any natural event, or in any other manner whatsoever except wagering or betting upon a horse race, when such wagering or betting upon a horse race takes place:—

(a) on the day on which such race is to be run, and

(b) in an enclosure which the stewards controlling such race have, with the sanction of the State Government, set apart for the purpose, but does not include a lottery;

'Instrument of gaming' includes any article used as a means or an appurtenance of, or for the purpose of carrying on or facilitating gaming, and any document used as a register or record or evidence of any gaming and, in particular, *satta* papers, that is to say, any document wherein may be recorded any words and/or figures evidencing bets and used or intended to be used for or in connection with gaming;

*Explanation.*—If any document is recovered from the possession of any person containing words and/or figures, which *prima facie* appear to evidence bets, it shall be presumed that the words and figures evidence bets and the document was used or intended to be used for gaming, unless the person aforesaid proves to the contrary;

'Common gaming-house' means any house or room or tent or enclosure or vehicle or vessel or any place whatsoever in which any instrument of gaming are kept or used for gaming purposes:—

(a) with a view to the profit or gain of any person owning, occupying, or keeping such house, room, tent, enclosure, vehicle, vessel or place whether by way of charge for the use of such house, room, tent, enclosure, vehicle, vessel, place or instruments or otherwise howsoever,

- (b) with or without a view to such profit or gain if the gaming for the purpose of which such instruments are so kept or used in gaming on any figures or numbers or dates to be subsequently ascertained or disclosed, or on the occurrence or non-occurrence of any natural event."

Amendment  
of section 2.

3. For the first paragraph of section 2 of the principal Act, the following paragraph shall be deemed to be substituted, namely:—

"Sections 13 and 17 of this Act shall extend to the whole of the State of Himachal Pradesh, and it shall be competent to the State Government, whenever it may think fit, to extend by a notification to be published in the Official Gazette, all or any of the remaining section of this Act to any area within the territory of Himachal Pradesh."

Amendments  
of sections 3, 4, 5,  
6 and 10.

4. In sections 3, 4, 5, 6 and 10 of the principal Act, for the words "house, walled enclosure, room or place" wherever they occur the words "house, room, tent, enclosure, vehicle, vessel or place", shall be deemed to be substituted.

Insertion of  
new section  
4-A.

5. After section 4 of the principal Act, the following section shall be inserted, namely:—

"4-A. *Enhanced punishment if offence under sections 3 or 4 relates to gaming with figures etc.*—Where an offence committed by any person under section 3 or section 4 relates to gaming on any figures or numbers or dates to be subsequently ascertained or disclosed, such person shall, notwithstanding anything contained in those sections,—

- (a) in the case of an offence under section 3, be liable to fine not exceeding one thousand rupees, or to imprisonment of either description for a term not exceeding one year, or to both; and
- (b) in the case of an offence under section 4, be liable to fine not exceeding five hundred rupees, or to imprisonment of either description for a term not exceeding six months, or to both."

Repeal of  
section 12.

6. Section 12 of the principal Act shall be deemed to be repealed.

Substitution  
of section  
13 and ins-  
ertion of  
new sections  
13-A and  
13-B

7. For section 13 of the principal Act, the following sections shall be substituted, namely:—

"13. *Penalty for gaming in public street, etc.*—Whoever is found gaming in any public street, place or thoroughfare or setting any bird or any animal to fight in any such street, place or thoroughfare shall be punishable with fine not exceeding fifty rupees or

with imprisonment of either description for a term not exceeding one month.

**13-A. Enhanced punishment if offence under section 13 relates to gaming with figures, etc.**—Where an offence committed by any person under section 13 relates to gaming on any figures or numbers or dates to be subsequently ascertained or disclosed, such person shall, notwithstanding anything contained in that section, be liable to fine not exceeding five hundred rupees, or to imprisonment of either description for a term not exceeding six months, or to both.

**13-B. Power to arrest without warrant.**—Any police officer may arrest without a warrant any person committing in his view any offence made punishable by section 13 or section 13-A.”.

8. For section 15 of the principal Act the following section shall be deemed to be substituted and after section 15 so substituted the following new section, shall be inserted, namely:—

Substitution of a new section for section 15 and insertion of new section 15-A and 15-B.

**“15. Penalty for subsequent offence under section 3.**—Whoever, having been convicted of an offence punishable under section 3, shall again be convicted of any offence punishable under that section shall be punished,—

(a) for a second offence with imprisonment of either description which may extend to six months, or with a fine which may extend to Rs. 1,000 or with both;

(b) for a third or any subsequent offence, with imprisonment of either description, which may extend to one year, and in the absence of special reasons to the contrary to be recorded in the judgment of the court, shall not be less than one month, together with a fine which may extend to Rs. 1,000.

**15-A. Penalty for subsequent offence under section 4.**—Whoever, having been convicted of an offence punishable under section 4 shall again be convicted of any offence punishable under that section shall be liable for every such subsequent offence to double the amount of punishment to which he would have been liable for the first commission of an offence of the same description.

**15-B. Enhanced punishment for subsequent offences under sections 4-A and 13-A.**—Whoever, having been convicted of an offence punishable under section 4-A or section 13-A, is again convicted of an offence punishable under either of those sections shall,—

(a) for a second offence, be punished with not less than twice the punishment awarded to him on his first conviction; and

(b) for a third or any subsequent offence, be punished with the punishment specified in clause (a):

Provided that the punishment under clause (b) shall not be less than imprisonment of either description for six months.

Insertion of  
new section  
18.

9. After section 17 of the principal Act the following new section shall be deemed to be inserted, namely:—

“18. *Exemption of games of mere skill.*—Nothing in this Act shall apply to any game of mere skill wherever played.”

Repeal and  
savings.

10. The Public Gambling (Punjab Amendment) Act, 1929, and the Public Gambling (Punjab Amendment) Act, 1960, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 are hereby repealed:

1 of 1929

9 of 1960

31 of 1966

Provided that the repeal shall not affect,—

- (a) the previous operation of the Acts so repealed or anything duly done or suffered thereunder, or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the Acts, so repealed, or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Acts so repealed, or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(2) Subject to the provisions of the proviso to sub-section (1) anything done or any action taken under the Acts repealed by sub-section (1) shall, in so far as it is not inconsistent therewith, be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Act and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under the principal Act as so amended.

## STATEMENT OF OBJECTS AND REASONS

At present, the Public Gambling Act, 1867 (Central Act No. III of 1867) which provides for the punishment of public gambling and the keeping of common gaming-houses is in force with different amendments and provisions of law in the two different areas of Himachal Pradesh, viz., the areas transferred to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966 and the areas comprised in Himachal Pradesh before the 1st November, 1966. In the former, the amendments as affected in the said Act by the Punjab Acts No. 1 of 1929 and 9 of 1960 are in force, while in the latter, no such amendments are in force. With a view to bringing about uniformity in the matter of such law, it has been considered necessary to repeal the amending Acts aforesaid and to enact a unified amending law for the whole of Himachal Pradesh. This Bill seeks to achieve the aforesaid object.

SIMLA:  
The 11th March, 1975.

Y. S. PARMAR,  
Chief Minister.

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## FINANCIAL MEMORANDUM

Nil

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## MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

